IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Crl.MC.No. 4041 of 2006()

AGAINST THE ORDER DATED / / IN CMP ORDER SC868/03. IN SC.868/2003 of II ADDL.SESSIONS COURT, KOLLAM

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PETITIONER: ACCUSED NO.5:

CHANDRA BABU @ PAVITHRAN,
S/O.NEELAKANTAN, PULINKEEZHIL THEKKETHIL,
KOTTAKKUPURAM MURIYIL, KULASEKHARAPURAM VILLAGE,
KARUNAGAPPALLY, KOLLAM.

BY ADV. SRI.S.SHAJI
SRI.H.HARIKUMAR (KOLLAM)

RESPONDENTS: COMPLAINANT:

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 4041 OF 2006

Dated this the 15th day of December, 2006

ORDER

The petitioner is the accused in S.C.No.868/03 before the Sessions Court, Kollam. He faces allegations, inter alia, under Sec.302 of the IPC and Sec.55 of the Kerala Abkari Act. He is the 5th accused in the crime. That case was posted for trial from 6/11/06 to 20/11/2006. He was not present to participate in the trial on 6/11/06. A non-bailable warrant of arrest was issued by the court and it was returned with an endorsement that the petitioner is in custody in some other abkari cases. The trial could not proceed. On a production warrant issued by the learned Sessions Judge, the petitioner was produced before court. The learned Sessions Judge, thereupon, cancelled the bail and remanded the petitioner to custody. The case now stands listed for trial on 12/3/07. The learned Sessions Judge appears to have entertained an apprehension that the petitioner may not be available for trial on 12/3/07 also. In the impugned order, the learned Sessions Judge has observed that steps will be taken expeditiously to dispose of

the Sessions Case.

2. The learned counsel for the petitioner submits that the impugned order works out great prejudice and hardship to the petitioner. It is submitted that the petitioner will have to remain in custody unnecessarily for no fault of his till 12/3/07 when the case is scheduled for trial and thereafter till the case is disposed of. Subject to any appropriate conditions, the petitioner may be directed to be enlarged on bail, it is prayed. Insistence that the petitioner must continue in custody on account of his absence on a day for no fault of his is totally unjustified, it is urged.

3. The learned Public Prosecutor was heard. The learned Public Prosecutor also airs the apprehension that the petitioner may not be available for trial when the case comes up for trial again. The offence alleged is serious. It is a liquor tragedy case, it is pointed out.

4. Having considered all the relevant inputs, I am certainly persuaded to agree that it is not necessary to insist on continuance of the petitioner in custody till the trial is completed. I am, in these circumstances, satisfied that the impugned order can be set aside and the petitioner permitted to

continue on bail on appropriate conditions.

5. In the result, this Crl.M.C. is allowed. The petitioner shall be released from custody on condition that:

(i) the petitioner executes a bond for Rs.2,00,000/- (Rupees two lakhs only) with two solvent sureties each for the like sum to the satisfaction of the learned Sessions Judge.

(ii) the petitioner shall appear before the learned Sessions Judge on the date scheduled for trial without fail.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge